



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1560

Introduced 2/22/2007, by Rep. Kathleen A. Ryg - Naomi D. Jakobsson

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.9 new	
215 ILCS 125/5-3	from Ch. 111 1/2, par. 1411.2
215 ILCS 130/4003	from Ch. 73, par. 1504-3
215 ILCS 165/10	from Ch. 32, par. 604

Amends the Illinois Insurance Code, the Health Maintenance Organization Act, the Limited Health Services Organization Act, and the Voluntary Health Services Plans Act to require coverage for (1) prescription enteral and oral formulas for home use for which a physician has issued a written order and that are medically necessary for the treatment or management of phenylketonuria or other inherited diseases involving amino acids or other organic acids; (2) up to \$2,500 per year worth of food products modified to be low in protein for which a physician has issued a written order and that are medically necessary for the management of phenylketonuria or other inherited diseases involving amino acids or other organic acids; and (3) nonprescription amino acid based elemental formulas, regardless of delivery method, that are medically necessary for the management of phenylketonuria or other inherited diseases involving amino acids or other organic acids. Effective immediately.

LRB095 09733 KBJ 29937 b

1 AN ACT concerning insurance.

2 WHEREAS, Hundreds of children in this State are born every
3 year with gastrointestinal disorders, such as Gastrointestinal
4 Reflux Disease (GERD), Eosinophilic Esophagitis (EE), and
5 others or inherited diseases of amino acid, organic acid, or
6 dairy protein allergies, which prevent proper digestion or
7 result in a negative reaction to certain natural milk or soy
8 products, formulas, and multiple foods;

9 WHEREAS, These conditions and others create a situation
10 where a natural sustained existence is virtually impossible and
11 threaten a child's ability to thrive;

12 WHEREAS, As many of these children are unable to process
13 any natural nutritional substance, parents, at the advice and
14 direction of a licensed health care professional, must seek
15 enteral or oral elemental formulas, such as amino acid modified
16 formulas and other specialized formulas, to provide proper and
17 medically necessary nutrition;

18 WHEREAS, Amino acid based elemental formulas and food
19 products are widely available, but expensive in nature due to a
20 complicated scientific manufacturing process;

21 WHEREAS, Health insurance policies currently only cover
22 the cost of specialized amino acid based elemental formulas
23 when administered by tube feeding even though tube feeding is
24 not always the least medically invasive or most cost effective
25 option available;

26 WHEREAS, Proper infant and child nutrition significantly

1 reduces digestion problems and other developmental and
2 physical conditions, as well as the need for future, more
3 expensive medical treatments; and

4 WHEREAS, The State of Illinois is committed to giving each
5 and every child proper nutrition and a high quality of life,
6 therefore

7 **Be it enacted by the People of the State of Illinois,**
8 **represented in the General Assembly:**

9 Section 5. The Illinois Insurance Code is amended by adding
10 Section 356z.9 as follows:

11 (215 ILCS 5/356z.9 new)

12 Sec. 356z.9. Treatment of certain metabolic diseases. An
13 individual or group policy of accident and health insurance or
14 managed care plan amended, delivered, issued, or renewed after
15 the effective date of this amendatory Act of the 95th General
16 Assembly must provide coverage for the following:

17 (1) prescription enteral and oral formulas for home use
18 for which a physician has issued a written order and that
19 are medically necessary for the treatment or management of
20 phenylketonuria or other inherited diseases involving
21 amino acids or other organic acids;

22 (2) up to \$2,500 per year worth of food products
23 modified to be low in protein for which a physician has

1 issued a written order and that are medically necessary for
2 the management of phenylketonuria or other inherited
3 diseases involving amino acids or other organic acids; and
4 (3) nonprescription amino acid based elemental
5 formulas, regardless of delivery method, that are
6 medically necessary for the management of phenylketonuria
7 or other inherited diseases involving amino acids or other
8 organic acids.

9 Section 10. The Health Maintenance Organization Act is
10 amended by changing Section 5-3 as follows:

11 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

12 Sec. 5-3. Insurance Code provisions.

13 (a) Health Maintenance Organizations shall be subject to
14 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
15 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
16 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
17 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 364.01,
18 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401,
19 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1,
20 paragraph (c) of subsection (2) of Section 367, and Articles
21 IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of
22 the Illinois Insurance Code.

23 (b) For purposes of the Illinois Insurance Code, except for
24 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health

1 Maintenance Organizations in the following categories are
2 deemed to be "domestic companies":

3 (1) a corporation authorized under the Dental Service
4 Plan Act or the Voluntary Health Services Plans Act;

5 (2) a corporation organized under the laws of this
6 State; or

7 (3) a corporation organized under the laws of another
8 state, 30% or more of the enrollees of which are residents
9 of this State, except a corporation subject to
10 substantially the same requirements in its state of
11 organization as is a "domestic company" under Article VIII
12 1/2 of the Illinois Insurance Code.

13 (c) In considering the merger, consolidation, or other
14 acquisition of control of a Health Maintenance Organization
15 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

16 (1) the Director shall give primary consideration to
17 the continuation of benefits to enrollees and the financial
18 conditions of the acquired Health Maintenance Organization
19 after the merger, consolidation, or other acquisition of
20 control takes effect;

21 (2) (i) the criteria specified in subsection (1) (b) of
22 Section 131.8 of the Illinois Insurance Code shall not
23 apply and (ii) the Director, in making his determination
24 with respect to the merger, consolidation, or other
25 acquisition of control, need not take into account the
26 effect on competition of the merger, consolidation, or

1 other acquisition of control;

2 (3) the Director shall have the power to require the
3 following information:

4 (A) certification by an independent actuary of the
5 adequacy of the reserves of the Health Maintenance
6 Organization sought to be acquired;

7 (B) pro forma financial statements reflecting the
8 combined balance sheets of the acquiring company and
9 the Health Maintenance Organization sought to be
10 acquired as of the end of the preceding year and as of
11 a date 90 days prior to the acquisition, as well as pro
12 forma financial statements reflecting projected
13 combined operation for a period of 2 years;

14 (C) a pro forma business plan detailing an
15 acquiring party's plans with respect to the operation
16 of the Health Maintenance Organization sought to be
17 acquired for a period of not less than 3 years; and

18 (D) such other information as the Director shall
19 require.

20 (d) The provisions of Article VIII 1/2 of the Illinois
21 Insurance Code and this Section 5-3 shall apply to the sale by
22 any health maintenance organization of greater than 10% of its
23 enrollee population (including without limitation the health
24 maintenance organization's right, title, and interest in and to
25 its health care certificates).

26 (e) In considering any management contract or service

1 agreement subject to Section 141.1 of the Illinois Insurance
2 Code, the Director (i) shall, in addition to the criteria
3 specified in Section 141.2 of the Illinois Insurance Code, take
4 into account the effect of the management contract or service
5 agreement on the continuation of benefits to enrollees and the
6 financial condition of the health maintenance organization to
7 be managed or serviced, and (ii) need not take into account the
8 effect of the management contract or service agreement on
9 competition.

10 (f) Except for small employer groups as defined in the
11 Small Employer Rating, Renewability and Portability Health
12 Insurance Act and except for medicare supplement policies as
13 defined in Section 363 of the Illinois Insurance Code, a Health
14 Maintenance Organization may by contract agree with a group or
15 other enrollment unit to effect refunds or charge additional
16 premiums under the following terms and conditions:

17 (i) the amount of, and other terms and conditions with
18 respect to, the refund or additional premium are set forth
19 in the group or enrollment unit contract agreed in advance
20 of the period for which a refund is to be paid or
21 additional premium is to be charged (which period shall not
22 be less than one year); and

23 (ii) the amount of the refund or additional premium
24 shall not exceed 20% of the Health Maintenance
25 Organization's profitable or unprofitable experience with
26 respect to the group or other enrollment unit for the

1 period (and, for purposes of a refund or additional
2 premium, the profitable or unprofitable experience shall
3 be calculated taking into account a pro rata share of the
4 Health Maintenance Organization's administrative and
5 marketing expenses, but shall not include any refund to be
6 made or additional premium to be paid pursuant to this
7 subsection (f)). The Health Maintenance Organization and
8 the group or enrollment unit may agree that the profitable
9 or unprofitable experience may be calculated taking into
10 account the refund period and the immediately preceding 2
11 plan years.

12 The Health Maintenance Organization shall include a
13 statement in the evidence of coverage issued to each enrollee
14 describing the possibility of a refund or additional premium,
15 and upon request of any group or enrollment unit, provide to
16 the group or enrollment unit a description of the method used
17 to calculate (1) the Health Maintenance Organization's
18 profitable experience with respect to the group or enrollment
19 unit and the resulting refund to the group or enrollment unit
20 or (2) the Health Maintenance Organization's unprofitable
21 experience with respect to the group or enrollment unit and the
22 resulting additional premium to be paid by the group or
23 enrollment unit.

24 In no event shall the Illinois Health Maintenance
25 Organization Guaranty Association be liable to pay any
26 contractual obligation of an insolvent organization to pay any

1 refund authorized under this Section.

2 (Source: P.A. 93-102, eff. 1-1-04; 93-261, eff. 1-1-04; 93-477,
3 eff. 8-8-03; 93-529, eff. 8-14-03; 93-853, eff. 1-1-05;
4 93-1000, eff. 1-1-05; 94-906, eff. 1-1-07; 94-1076, eff.
5 12-29-06; revised 1-5-07.)

6 Section 15. The Limited Health Service Organization Act is
7 amended by changing Section 4003 as follows:

8 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

9 Sec. 4003. Illinois Insurance Code provisions. Limited
10 health service organizations shall be subject to the provisions
11 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,
12 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,
13 155.04, 155.37, 355.2, 356v, 356z.9, 368a, 401, 401.1, 402,
14 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles
15 IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of
16 the Illinois Insurance Code. For purposes of the Illinois
17 Insurance Code, except for Sections 444 and 444.1 and Articles
18 XIII and XIII 1/2, limited health service organizations in the
19 following categories are deemed to be domestic companies:

20 (1) a corporation under the laws of this State; or

21 (2) a corporation organized under the laws of another
22 state, 30% of more of the enrollees of which are residents
23 of this State, except a corporation subject to
24 substantially the same requirements in its state of

1 organization as is a domestic company under Article VIII
2 1/2 of the Illinois Insurance Code.

3 (Source: P.A. 91-549, eff. 8-14-99; 91-605, eff. 12-14-99;
4 91-788, eff. 6-9-00; 92-440, eff. 8-17-01.)

5 Section 20. The Voluntary Health Services Plans Act is
6 amended by changing Section 10 as follows:

7 (215 ILCS 165/10) (from Ch. 32, par. 604)

8 Sec. 10. Application of Insurance Code provisions. Health
9 services plan corporations and all persons interested therein
10 or dealing therewith shall be subject to the provisions of
11 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
12 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,
13 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
14 364.01, 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2,
15 and 412, and paragraphs (7) and (15) of Section 367 of the
16 Illinois Insurance Code.

17 (Source: P.A. 93-102, eff. 1-1-04; 93-529, eff. 8-14-03;
18 93-853, eff. 1-1-05; 93-1000, eff. 1-1-05; 94-1076, eff.
19 12-29-06.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.